

## **Frequently Asked Questions - Active Duty Peace Officers, Retired Peace Officers and Reserve Peace Officers**

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### **CONTACTS:**

BSIS

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The Bureau of Security and Investigative Services (BSIS) receives a wide variety of questions from and about peace officers. Below are some of the most commonly asked questions and answers. The questions are grouped by category, such as active duty peace officers and firearms.

Please keep in mind that different laws apply to different situations. For example, The Private Investigators Act covers private investigators (PIs), while the Private Security Services Act covers private patrol operators and security guards. Both these Acts are included in the Business and Professions Code (B&P Code).

This is further complicated by the fact that active duty peace officers, as defined in the Penal Code, have some limited exemptions in the B&P Code that civilians and retired peace officers do NOT have. For example, a security guard must possess a BSIS-issued baton permit and work in a security guard uniform to carry a baton while on duty. However, active duty peace officers are exempt from this requirement as explained in the Q&A below.

### **ACTIVE DUTY PEACE OFFICERS EMPLOYED OFF-DUTY AS SECURITY GUARDS (BODYGUARD), OR PROVIDING CONTRACT SECURITY GUARD (BODYGUARD) OR CONTRACT PI SERVICES AND CARRYING A FIREARM OR A BATON**

**Q1:** Is an active duty peace officer working off-duty as a bodyguard in civilian clothes with a concealed firearm required to possess a BSIS-issued exposed firearm permit and guard card?

**A:** Yes. An active duty peace officer must possess a BSIS-issued exposed firearm permit and guard card to work in civilian clothes as a bodyguard in an armed capacity.

**Q2:** What BSIS license and permit must an active duty peace officer possess to provide armed bodyguard services for VIPs or celebrities?

**A:** A BSIS-issued Private Patrol Operators (PPO) license and an exposed firearm permit is required. Only a licensed PPO may contract to provide bodyguard services or security guard services to any person or entity.

**Q3:** Why are California peace officers required to: (a) possess a BSIS-issued exposed firearm permit and guard registration, be employed as an armed security guard (or bodyguard); or (b) possess a BSIS-issued exposed firearm permit and a PI license to provide armed PI services on contract?

**A:** Since January 1, 1997, the law has required active duty peace officers who work armed as security guards, or as armed contract PIs, to possess a guard registration, or a PI license, AND an exposed firearm permit issued by BSIS.

**Q4:** May an active duty peace officer with a BSIS guard card and exposed firearm permit contract with a VIP or celebrity to provide bodyguard services in civilian clothes while carrying a firearm?

**A:** No. Only a BSIS licensed private patrol operator (PPO) may contract to perform security guard or bodyguard services to any person or business. An active duty peace officer with a guard card and an exposed firearm permit issued by BSIS may perform armed security guard (bodyguard) duties only as a security guard employee. The employment relationship must be with either a PPO, who has the contract to perform the service, or with the person or business for whom the security service is being performed.

**Q5:** Is an active duty peace officer required to submit fingerprints for a criminal record review as an applicant for a BSIS-issued guard card, firearm permit, Private Patrol Operator license, or a PI license, since as a peace officer, his/her prints are already on file with DOJ?

**A:** Yes. The B&P Code requires that applicants undergo a BSIS criminal record review. If an applicant does not submit fingerprints to DOJ, BSIS is not authorized to receive the criminal record from DOJ.

**Q6:** When may an active duty peace officer begin working as an armed guard (or bodyguard) once a completed guard and exposed firearm application is submitted, including proof of peace officer status, fingerprints and payment of all fees?

**A:** Immediately. Because active duty peace officers have undergone a thorough background check, including a criminal record review, and have extensive firearm training, they may begin working immediately once they submit a completed application to BSIS. However, should the criminal record review reveal a criminal or court record that prohibits the applicant from working as an armed guard, the applicant may NOT work as an armed guard, even if the applicant is an active duty peace officer.

**Q7:** Is an active duty peace officer required to complete and pass the BSIS firearm course in order to receive a BSIS exposed firearm permit?

**A:** No. However, the applicant must submit proof of peace officer status.

**Q8:** Is an active duty peace officer required to possess a BSIS-issued baton permit to carry a baton on duty as a guard (bodyguard)?

**A:** No. The B&P Code exempts active duty peace officers from possessing a BSIS baton permit when working off-duty as a guard (bodyguard).

**Q9:** Is an active duty peace officer who possesses a BSIS-issued exposed firearm permit required to satisfy the BSIS firearm range re-qualifications in order to renew the firearm permit?

**A:** No. Active duty peace officers who are authorized and qualified by their employer (law enforcement agency) to carry a firearm are exempt from the BSIS firearm re-qualifications.

**Q10:** May an active duty peace officer contract to provide armed bodyguard services?

**A:** No. Only a person with a BSIS-issued private patrol operator's license (PPO) may contract to provide security services. A PPO license is required to provide security guard (bodyguard) services on contract to any person or business.

A security guard may not act as an independent contractor to provide security services. A security guard must be employed as an employee of either a PPO, or the person, or business for whom the guard is providing security services.

**Q11:** May an active duty peace officer contract with a licensed PI to perform PI duties?

**A:** No. Only a Licensed PI may contract to perform PI duties.

**Q12:** May an active duty peace officer with a PI license contract to provide a bodyguard service?

**A:** No. A bodyguard is a security guard. Therefore, only a PPO may contract to specifically provide a bodyguard service. However, a PI who has a contract with a client, may provide a bodyguard service to the client if that service is peripheral to an on-going PI contract.

An active duty peace officer must possess a guard card and an exposed firearm permit to be employed as a bodyguard and work in civilian clothes with a concealed weapon.

#### **FEDERAL AND OUT-OF-STATE LAW ENFORCEMENT OFFICERS:**

**Q13:** Do the exemptions discussed in questions 8, 9 and 10 above apply to active duty federal law enforcement officers, including Federal Protective Service Officers (FPOs)?

**A:** Yes, if officers submit proof of federal law enforcement officer or FPO status and federal firearm qualifications to BSIS.

**Q14:** Do the exceptions in questions 8, 9, and 10 above apply to active duty law enforcement officers from other states?

**A:** No. Out-of-state law enforcement officers must comply with all BSIS requirements.

**Q15:** May an active duty federal law enforcement officer, including FPOs, perform PI duties and carry a firearm while working as an employee of a licensed PI?

**A:** Yes. Active duty federal law enforcement officers and FPOs may perform PI duties while armed, without a BSIS-issued firearm, while employed by a licensed PI.

**Q16:** Are active duty federal law enforcement officers and FPOs required to possess a BSIS-issued baton permit when working as security guards?

**A:** No. Active duty federal law enforcement officers are exempt from possessing the BSIS-issued baton permit.

## **RESERVE PEACE OFFICERS**

**Q17:** Are reserve peace officers required to complete the initial BSIS course of fire?

**A:** No. Reserve peace officers who are authorized and qualified by their employer (law enforcement agency) to carry a firearm are exempt from the BSIS firearm qualifications.

**Q18:** Are reserve peace officers required to complete the BSIS quarterly firearm range re-qualifications?

**A:** Yes and no. No, if the reserve peace officer submits proof of firearm training and qualifications from the law enforcement agency with whom he/she serves. Yes, if the reserve officer does not submit such proof.

**Q19:** Are reserve peace officers required to possess a BSIS-issued baton permit while employed as a security guard or bodyguard?

**A:** No. The B&P Code exempts reserve peace officers from possessing a BSIS baton permit when working off-duty as a guard (bodyguard).

## **RETIRED PEACE OFFICERS**

**Q20:** Are honorably retired peace officers with an endorsement to carry a concealed weapon, required to possess a BSIS-issued guard card and firearm permit and baton permit to work as uniformed security guards with an exposed weapon or as bodyguards in civilian clothes with a concealed weapon?

**A:** Yes. Retired peace officers with an endorsement to carry a concealed weapon must complete all required training and possess a BSIS-issued guard card, firearm permit and baton permit in order to work as a uniformed security guard with an exposed firearm and baton or as a bodyguard in civilian clothes with a concealed weapon. A retired peace officer may not carry a concealed baton.

**Q21:** May an honorably retired peace officer with an endorsement to carry a concealed weapon, perform PI duties and carry a concealed firearm while working as an employee of a licensed PI?

**A:** Yes. An honorably retired peace officer with an endorsement to carry a concealed weapon may work armed without a BSIS-issued firearm permit while performing PI duties when employed by a licensed PI.

**Q22:** May an honorably retired peace officer with an endorsement to carry a concealed firearm, and with a BSIS-issued guard card, firearm permit and baton permit carry a concealed baton while on duty in civilian clothes as a security guard or body guard?

**A:** No. Retired peace officers must be in a security guard uniform to carry a baton. A retired peace officer with an endorsement to carry a concealed weapon, and with a BSIS-issued firearm permit and guard card may carry a concealed firearm but not a concealed baton while working in civilian clothes as a bodyguard or security guard.

### **SECURITY GUARDS AND BODYGUARDS:**

Under the B&P Code, security guards and bodyguards are the same and are covered by the same laws. A bodyguard is a security guard. Peace officers frequently tell BSIS staff that since they are working in civilian clothes with a concealed weapon as bodyguards for VIPs or celebrities, they are not security guards. This is incorrect.

The laws, rules and regulations that apply to security guards apply to bodyguards. For example: If a security guard must be in a security guard uniform to carry an exposed weapon, then a bodyguard must be in a uniform to carry an exposed weapon. If a security guard who works in civilian clothes with a concealed weapon must possess a guard card and exposed firearm permit, and either possess a Concealed Firearms Permit (CCW), or be an honorably retired peace officer with an endorsement to carry a concealed weapon, or be an active duty peace officer, then a bodyguard who works in civilian clothes with a concealed weapon must possess a guard card, an exposed firearm permit and either possess a CCW, or be an honorably retired peace officer with an endorsement to carry a concealed weapon, or be an active duty peace officer.

### **EXPOSED FIREARM PERMIT AND CONCEALED FIREARM PERMIT (CCWS):**

The B&P Code authorizes BSIS to issue Exposed ONLY Firearm Permits. The Penal Code authorizes local law enforcement agencies to issue CCWs. BSIS is not authorized to issue CCWs. Most active duty peace officers, and many reserve peace officers, are authorized to carry a concealed weapon off-duty. Honorably retired peace officers often possess an endorsement from a former employer to carry a concealed weapon.

### **IMPORTANT NOTICE:**

Active duty peace officers should exercise caution when identifying themselves as peace officers while working off-duty as bodyguards or security officers. This is a very complex issue involving the interplay of Penal Code Section 70, case law and the B&P Code.

The general rule that a peace officer is a peace officer 24 hours a day on or off-duty may NOT apply when a peace officer is working off-duty out of uniform. You are advised to seek legal advice and follow the directions of your local law enforcement agency. You are also advised to familiarize yourself with *Melendez v City of Los Angeles* (1998) 63 Cal. App. 4th 1; 73 Cal. Rpts. 2d 469.

### **CONTRACT AND EMPLOYEE:**

The B&P Code specifies who may engage in an enforceable contract to provide a service and who must work as an "employee."

Generally, a contractor is not on payroll, is paid without deductions, and receives an IRS form 1099 for tax purposes. A contractor has a contract to provide a service.

An "employee" is a person who has an employer-employee relationship with the employer. Generally, this means that the person is on a payroll, and all appropriate payroll deductions are taken, including federal and state taxes, and the employee receives an IRS W-2 for tax purposes.

If you are unclear about the differences and how you may be affected, please seek legal advice or discuss the matter with your agency.